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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2010-557

12 **JERRY HENRIQUEZ**
13 **501 E. Katella Street, #22D**
Orange, CA 92867
14 **Registered Nurse License No. 654940**

ACCUSATION

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about March 22, 2005, the Board of Registered Nursing issued Registered
23 Nurse License Number 654940 to Jerry Henriquez (Respondent). The Registered Nurse License
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 March 31, 2011, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 726 of the Code states in pertinent part:

The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division, under any initiative act referred to in this division and under chapter 17 (commencing with Section 9000) of Division 3.

7. Section 2761 of the Code states in part that the board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for unprofessional conduct.

FACTS

8. On February 12, 2010, patient A entered the Chapman Medical Center emergency room complaining of arm pain. She was treated by a physician who ordered an injection for pain. Respondent administered an intra-muscular injection of Dilaudid and Phenergan into patient A's gluteus maximus. Respondent also gave patient A one flexeril pill, a muscle relaxant.

9. While patient A was under the influence of narcotics, respondent kissed her with an open mouth, fondled her breasts, and exposed his penis to her. After his shift was over

1 respondent sent Patient A three text messages wherein he asked her if she enjoyed the care he
2 gave her, if she was feeling better and in the third message respondent told her to drink plenty of
3 fluids.

4 10. On or about February 17, 2010, officers from the Orange County Police Department
5 interviewed respondent, who admitted kissing patient A while his penis was exposed.

6 **FIRST CAUSE FOR DISCIPLINE**

7 (Act of Sexual Misconduct)

8 11. Respondent is subject to disciplinary action under section 726 in that he committed an
9 act of sexual misconduct with a patient while she was under the influence of narcotics as set forth
10 above in paragraphs 7-10.

11 **SECOND CAUSE FOR DISCIPLINE**

12 (Unprofessional Conduct)

13 12 Respondent is subject to disciplinary action under section 2761(a) in that he
14 committed unprofessional conduct by kissing patient A and exposing his penis to her while she
15 was a patient under his care, and while she was under the influence of narcotics, as set forth
16 above in paragraphs 7-10.

17 **PRAYER**

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
19 and that following the hearing, the Board of Registered Nursing issue a decision:

20 1. Revoking or suspending Registered Nurse License Number 654940, issued to Jerry
21 Henriquez.

22 2. Ordering Jerry Henriquez to pay the Board of Registered Nursing the reasonable costs
23 of the investigation and enforcement of this case, pursuant to Business and Professions Code
24 section 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: April 27, 2010

Sherry L. Ledakis, for
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant